



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 10, 1998

Mr. Ryan Tredway
Staff Attorney
Legal and Compliance Division
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR98-1794

Dear Mr. Tredway:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 116951.

The Texas Department of Insurance (the "department") received a request for any agency records concerning "any complaints, actions, reports on examination, stipulations or consent orders issued against National Health Corporation" or its subsidiaries. You indicate that you will release some of the requested information to the requestor. You claim, however, that some of the information is excepted from required public disclosure by sections 552.101, 552.111, and 552.112 of the Government Code. National Health Insurance Company also argues that the requested information may be protected by sections 552.101, 552.110, 552.111, and 552.112. We have considered the exceptions claimed and have reviewed the submitted documents at issue.

You first claim that most of the submitted responsive documents are excepted from disclosure under section 9, article 1.15 of the Insurance Code in conjunction with section 552.101 of the Government Code. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Article 1.15, section 9, of the Insurance Code makes confidential the examination reports and related work papers obtained during the course of an examination of a carrier. Ins. Code art. 1.15, § 9, Open Records Decision No. 640 (1996).¹ You inform us that most of the documents are "reports

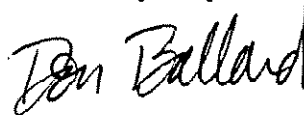
¹We note that Open Records Decision No. 640 (1996) is a previous determination within the meaning of section 552.301(a) of the Government Code for the type of documents addressed in that opinion.

on examination" and include an examination report, works papers, and memoranda regarding National Health Insurance Company which are protected by article 1.15 section 9. We therefore conclude that the department must withhold the information which it claims falls within section 9 of article 1.15 under section 552.101 of the Government Code.²

You next contend that portions of a consumer complaint letter are excepted from disclosure because of a right of privacy. We agree. Section 552.101 encompasses information protected by common-law privacy and excepts from disclosure private facts about an individual. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Information may be withheld from the public when (1) it is highly intimate and embarrassing such that its release would be highly objectionable to a person of ordinary sensibilities, and (2) there is no legitimate public interest in its disclosure. *Id.* at 685; Open Records Decision No. 611 (1992) at 1. We believe that you must withhold the information on the complaint that we have marked. Open Records Decision Nos. 600 (1992) (personal financial information not relating to the financial transaction between an individual and a governmental body), 545 (1990), 470 (1987). We do not believe that the remaining information in the complaint is protected from disclosure.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/nc

Ref: ID# 116951

Enclosures: Marked documents

²For purposes of this ruling, we assume that the company is not in liquidation or receivership. Ins. Code art. 1.15, § 9; *see* Open Records Decision No. 640 (1996) at 3-4. Because we make a determination under section 552.101, we need not consider the department's or National Health Insurance Company's additional arguments against disclosure for this information.

cc: Mr. Jeffrey Light
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(w/o enclosures)